

August 10, 2009

The Common Council met as the Water Utility Board at 7:00 p.m. on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Askren, Fuelling, Hoehn, Curtis, and Higgins attending. Others attending were Attorney Higgins; Supt. Gray; Chief Waters; Supt. Givens; Comm. Maynard; Capt. Allyn; Dave and Judy Whitten; Scott Miller and Jim Cameron – Umbaugh; Ann Blackburn; Clarence Nelson; Scott Keller – Mt. Vernon Economic Development Commission; Jesse Martinez; Sean Browning and B J Reynolds – Vectren; Pam Robinson – Posey County News; and arriving during the meeting, Sheila Stewart.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Board member Askren moved the reading of the minutes be waived and they be approved as presented. Seconded by Board member Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker requested action on the claims presented.

Board member Higgins moved the claims presented be allowed for payment. Seconded by Board member Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

*****CLAIMS*****

Mayor Tucker stated they will now hear the report of the Water Chairman.

Chairman Curtis stated he will let Supt. Gray give the report this evening.

Supt. Gray stated the sludge treatment trial has been a complete success and they are now ready to proceed to the next phase. He continued by stating the Tile Factory Road/Seibert Lane work is now complete and they will begin final testing on the north booster station shortly. He concluded by stating there was a leak at Locust and Water Streets, a much older line. He stated his crew had it fixed in record time and avoided a city wide boil order as a result. He added a line was damaged in the process, laid in 1886 and it could “go” itself at any time.

Chairman Curtis asked about the plant ?

Supt. Gray replied they ran an acid test, and opened it up and ran it as hard as it would go, they had no issues – the new filters are operating great.

Board member Fuelling asked about the 1886 line, was it parallel to the sewer lines ?

Supt. Gray replied it takes a jog at Locust Street, and it was not listed on their maps, though it did show up on an old map here at City Hall. He added they have now mapped it out.

Board member Fuelling asked if this will cause them problems later ?

Supt. Gray replied no, as the lines continue, they go farther and farther apart.

Board member Fuelling stated Supt. Gray's workers did a great job on that leak, preventing it from being much worse, and he really appreciates their efforts.

Mayor Tucker asked if there were any questions of Supt. Gray or Chairman Curtis ?

There were none.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Board ?

Clerk-Treasurer Wolfe replied not at this time.

Mayor Tucker asked if there were any Legals for consideration ?

Attorney Higgins stated she has none.

Mayor Tucker stated in the Audience, listed on the Agenda is Umbaugh with the results of the water rate study.

Scott Miller and Jim Cameron approached and Mr. Miller stated a few weeks back, Mr. Cameron was down updating their analysis on the financial situation at the water department. He reminded the Board that last year they added another tier to their rate structure to provide for Aventine, as well as doing a Bond Anticipation Note (BAN). He further stated the BAN is still outstanding and will be for four more years. He added they are now at the point where there is not going to be an Aventine, a year and a half later, and the rates will now need to be adjusted to accommodate for that. He continued by asking the Board to review page 6 and they will see the recommendation of Umbaugh for the increase – 22.8%, or \$5.40 increase across the Board. He added, as they can see from the printout, they have a shortfall of \$534,600, due to the loss of Aventine.

Board member Curtis asked about a graph of rates from surrounding areas, he thought he had seen that before.

Mr. Miller replied that is actually on page 9. He then stated the BAN is outstanding and will be maturing January 1, 2013. He also reminded Board that water revenues are currently down, mainly due to the bad economy.

Board member Curtis stated had the city had Aventine up and operational, they would actually have \$400,000 in excess currently. He added it seems they really have no choice here.

Board concurred to authorize Attorney Higgins to proceed with a draft ordinance of the water rate increase, as recommended by Umbaugh.

Sheila Stewart arrived at the meeting.

Mayor Tucker asked if anyone else in the Audience wished to address the Board ?

Jesse Martinez stated he is present to request a water adjustment at 6088 Jeffrey Lane.

He explained this is his second adjustment this year, and they had leak under the mobile home, a valve blew off.

Supt. Gray added the paper work is in and it is a legitimate leak. He stated they now need to wait for the next bill to come in to be sure it is fixed, they will then do an average bill.

Attorney Higgins stated Supt. Gray can bring the exact amount of the adjustment to the next meeting.

Mr. Martinez then thanked the Board and left the meeting.

Mayor Tucker asked if anyone else in the Audience wished to address the Board ?
There was no response.

Mayor Tucker asked if there was any Old Business.
There was none.

Mayor Tucker asked if there was any New Business.
There was none.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn. Board member Hoehn moved the meeting be adjourned. Seconded by Board member Curtis.
Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Wolfe
Clerk-Treasurer

The Common Council met immediately following the Water Utility Board on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Askren, Fuelling, Hoehn, Curtis, and Higgins attending. Others attending were Attorney Higgins; Supt. Gray; Chief Waters; Supt. Givens; Comm. Maynard; Capt. Allyn; Dave and Judy Whitten; Scott Miller and Jim Cameron – Umbaugh; Ann Blackburn; Clarence Nelson; Scott Keller – Mt. Vernon Economic Development Commission; Jesse Martinez; Sean Browning and B J Reynolds – Vectren; Pam Robinson – Posey County News; and Sheila Stewart.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any

corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Councilwoman Askren moved the reading of the minutes be waived and they be approved as presented. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated they will now hear the reports of the Standing Committees.

Street & Light Chairwoman Hoehn stated she has no report.

Comm. Maynard stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Police & Dog Chairwoman Askren stated she has no report.

Capt. Allyn stated she has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Fire Chairman Fuelling stated he has no report.

Chief Waters stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Sewer Chairwoman Higgins stated she has no report.

Supt. Givens stated there is a situation that comes up from time to time that is slowly turning into an issue. He explained some times when a business is new in town, etc., they may need additional work done to the sewer lines, have them cleaned out, etc. He added this type of work is not "city" normal routine type of work. He then stated there is nothing in writing on what they could/should be charging for this type of service, which mainly involves the VacCon truck. He was wondering if the Council could look into setting some rates and charges on the use of the truck and per man, as he feels they need to be paid for that service. He then stated they could make some extra money with that. Councilman Curtis questioned what kind of liability they would be getting into by doing this ?

Attorney Higgins replied similar to checking a line and of course, a waiver would need to be executed – the city still has to act without negligence, as they do in all of their tasks.

Supt. Givens stated they never operate out of their scope of work.

Councilwoman Hoehn asked how often these situations come up ?

Supt. Givens replied six or seven times this year so far, but they have not done any of them, as he feels it is not their responsibility.

Attorney Higgins stated as she understands it, on the pre-treatment side of things, is mainly when the sewer plant is asked to do something extra like this. She further stated

there is no schedule of costs in place for this, like the Street Department has in place for weeds and extra trash pick ups.

Councilwoman Hoehn asked if Supt. Givens would be willing to do a cost analysis for them ?

Supt. Givens replied he has done that, based on information he received from two firms that do this kind of work. He added he wants whatever they charge to be fair, but he would like to recover some of their costs.

Councilwoman Hoehn asked if he knew their cost ?

Supt. Givens replied not really, no. He added he will bring some rates in to the next meeting.

Councilman Fuelling asked how much time they would actually have to devote to that, and more importantly, the use of the truck versus how long the truck will end up lasting the city. He then stated, and obviously, they can not do this kind of work for everyone that asks.

Supt. Givens stated they would be selective and they would not be doing this type of work for their residential customers, only in the case of unforeseen commercial issues.

Councilman Curtis again asked that he bring some numbers to the next meeting.

Councilwoman Hoehn questioned the city's insurance coverage for this ?

Attorney Higgins replied she is sure they (ONB) would just need to be advised, but that should probably be confirmed.

Mayor Tucker asked if there were any questions ?

There were none.

Mayor Tucker stated they have the Financial Report before them and any questions could be directed to Clerk-Treasurer Wolfe.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Council ?

Clerk-Treasurer Wolfe replied not at this time.

Mayor Tucker stated they are now ready for the Legal portion of the Agenda.

Attorney Higgins stated the first item is the final reading on the proposed Ordinance Amending City of Mt. Vernon Code of Ordinances, Title V – Public Works, Chapter 50 – Sewer, Section 50.197 (E) – Charges for Use of Disposal System. She reminded Council this ordinance would remove section E from the Sewer Rate Ordinance.

Councilman Curtis moved the ordinance pass final reading. Seconded by Councilwoman Hoehn.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Wolfe stated it will be numbered 09-21.

Attorney Higgins stated the next item is second reading of the Ordinance Creating Rules to be Observed During Festivals and Public Events on Public Property. She reminded Council this passed first reading at their last meeting and she has received comments since that time.

Councilwoman Hoehn stated she had not fully read the ordinance before the vote at last meeting, therefore, she voted NO. She stated she does have some concerns, the first being the festival are having this September 11 is a salute to freedom and there will be lots of weapons at that festival, from muskets, to cannons being fired. This ordinance bans weapons at festivals and she fears if this is passed they may be breaking their own ordinance (River Days). She continued by stating the second issue she has is stepping on folks' second amendment rights concerning concealed permits – she wondered if that section could be taken out. The other issue would be mobility scooters should not be prohibited. She then stated it also states that the “committee” sponsoring the event should be the first line of who should be contacted when there is a violation. She does not feel the “committee” should handle that, rather the police should take care of any violations. She concluded by stating if they ban pets, what about the Humane Society ? If they choose to have a booth at an event, wouldn't they also be in violation ?

Councilwoman Higgins deferred to Attorney Higgins.

Attorney Higgins then read Section I. paragraph (2) as follows: No animals or reptiles shall be permitted within the designated area, whether or not on a leash, unless the animal is a registered entrant in an authorized parade or unless the animal is a guide or service animal for a visually or hearing impaired person.

Councilwoman Hoehn again stated by that reading, she does not want to exclude circuses that have come to town in the past.

Attorney Higgins stated in the case of a circus, etc, the Board of Works needs to be aware of the event and give it their seal of approval.

Councilwoman Higgins stated as for the weapons part that SHOULD go without saying they are not allowed.

Councilwoman Hoehn agreed it should be referred to the current weapons laws.

Attorney Higgins agreed and added in this case, that is prohibited by State law, the city need do nothing more.

Councilwoman Higgins stated she just wants a safe, family oriented festival.

Councilman Curtis stated he thought “participants” would be excluded from this ordinance.

Councilwoman Hoehn stated she just does not see how they can say no weapons, and then have a festival that is saluting the military.

Councilwoman Higgins stated to her, they are two different things.

Mayor Tucker suggested they delete under Section I, (A), (3) and come back at a different time to take another look at it.

Capt. Allyn stated anything in an ordinance such as this does give the police a little more authority to enforce.

Councilwoman Hoehn stated she would like to see the weapons clause removed.

Councilwoman Higgins deferred to Judy Whitten, a member of the River Days committee.

Mrs. Whitten stated she really has no feeling either way, she just wants the event to be safe for all. She then added it could do more harm than good if the ordinance is too

prohibitive by excluding people. She suggested they delete that section for now, and revisit it at another time.

Councilman Curtis stated he has no problem with that, but they omit it now, add it again later....

Councilman Fuelling stated he feels existing laws take care of it.

Supt. Givens stated as a citizen of Mt. Vernon he can say that he does have a gun permit, and he knows many elderly folks who do as well for protection, if Council takes that away, it still won't stop thugs.

Councilman Fuelling stated they should delete number 3 under section A.

Councilwoman Higgins added they need to also add "or exhibits" after "...authorized parade..." under Section I (A) (2).

Councilwoman Hoehn added they also need to delete paragraph (3) under Section I (A).

Councilman Curtis moved the ordinance pass second reading with the above amendments. Seconded by Councilman Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Councilman Curtis moved the rules be suspended. Seconded by Councilman Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Councilman Curtis moved the ordinance pass final reading. Seconded by Councilman Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Wolfe added it will be numbered 09-22.

Attorney Higgins stated the final item is the third reading of the Sigeco/Vectren Pollution Control Bond Ordinance. She then stated the Mt. Vernon Economic Development Commission met at 6:00 pm to hold a public hearing on the issue and Scott Keller of the MVEDC as well as Mr. Browning and Mr. Reynolds of Vectren were present.

Mr. Keller approached and stated he is the president of the MVEDC and they questioned Vectren extensively this evening and they in turn, answered all questions in a forthright

manner. He added they believe their project will be a benefit not only to the citizens of Mt. Vernon, but Posey County as well. He added it will also provide environmental benefits, and as a result, the EDC gave them approval.

Attorney Higgins added the committee did indeed ask in depth questions, and they are recommending adoption and passage.

Mr. Browning and Mr. Reynolds approached the podium for any questions.

Councilwoman Higgins asked if there are other plants anywhere doing this ?

Mr. Reynolds replied this is just a first step, but yes, there are other sites using this technology.

Councilwoman Hoehn asked if it is proven technology ?

Mr. Reynolds replied yes.

Attorney Higgins reminded Council the city is not affected by this debt; it is not a city obligation and no taxes will be pledged on this – and its passage was recommended by the EDC.

Councilwoman Hoehn moved the ordinance pass final reading. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Wolfe added it will be numbered 09-23.

Mayor Tucker asked if anyone else in the Audience wished to address the Council ?

Sheila Stewart approached and stated she lives at 1214 Mulberry and she would once again like to discuss the house at 1218 Mulberry. She stated she has worked endlessly on this, read over 6000 pages of information, and talked with numerous legislators. She added she also attended the code hearing on the above address and the owner was present at that hearing, wanting the deed transferred to the folks that operated the meth lab at the residence. Mr. Alan Topper stated had no issue with it, but she has found out that the deed can NOT be transferred until the property is cleaned. The owners knew this and had had that information since the raid in March. She further stated that Councilman Fuelling was also present at that hearing. She added she contacted Mr. Shaffer with the County Health Department and he told her they could not transfer the deed. She then stated the public health officer said Mr. Shaffer could put abatement on the deed, but Mr. Shaffer told her he would not do that. He gave no reason, only that he would not do it. It only would have required him to contact the Recorder's Office to stop it, but said it would not do it, and that is his JOB to do it. She then stated last week the Recorder's Office contacted her and told her the deed was being transferred. She continued by stating she is trying to go about this the legal way, trying to do what she can and all she is really doing is going around in circles – nothing is getting solved and this situation is an endangerment to the community. She added she has heard that the folks that had the meth lab may be moving back in. She further stated they have even tried "threatening" her with intimidation. She stated if the city waits there will be an explosion there – she

has lived with this for two years and gotten no help from Mr. Shaffer, though she stated Mrs. Willis has worked endlessly on this for her, even with her mother in the hospital. She then wondered why laws are even made when no one enforces them. She urged Council and the public to get behind their legislators and tell them about what is going on – give Mr. Shaffer a call about this and remind him what his job is.

Attorney Higgins stated an injunction could be filed, but it would have to be filed through the Health Department, they have the statutory authority in this case.

Councilwoman Hoehn asked then what ? The deed is already transferred and recorded.

Attorney Higgins stated she really has no idea at that point. She then stated the County Health Department reports to the Board of Health and ultimately to the County Commissioners. She added she believes Dr. Rapp is on the Board of Health along with Bev Emhuff, the County Health Nurse.

Councilwoman Hoehn stated she will contact Ms. Emhuff and find out who the chair of the County Health Board is.

Attorney Higgins stated the County Health Board could authorize the County Attorney, etc. to take action.

Councilman Fuelling stated he did sit in on the hearing and he could not believe that the company “gave” the deed to the owners. He stated code enforcement was mainly dealing with the outside of the house, but the condition of the inside is what has to be dealt with before anyone can move back in. He added it is a long process before anyone can move back in, from what he has heard.

Councilwoman Hoehn stated she will call Ms. Emhuff tomorrow.

Councilwoman Higgins added she will call Mr. Shaffer.

Mayor Tucker asked if anyone else in the Audience wished to address the Council ? There was no response.

Mayor Tucker asked if there was any Old Business ?

Councilman Fuelling stated the tree removal is continuing on 2nd Street and Mr. Clark from the Street Department is doing a great job with the backhoe. He then added the Tile Factory Road ditch issue is still just that, an issue. He stated he talked with Mr. Frye of the MSD and he agreed to poll the bus drivers to see if they feel it is a danger to them. He added he will get their input and report back to the Council.

Mayor Tucker asked if there was any New Business ?

Councilman Fuelling stated he has informed the newspapers on the silo project, the luncheon that is being planned next month, etc., and as not to steal their thunder, that is all he will say on that topic.

Mayor Tucker stated they will now hear the reports of the Districts.

1st District Councilwoman Askren stated she has no report.

2nd District Councilman Fuelling stated with schools getting ready to be back in session there are folks out walking to school, running after school and folks need to be reminded

not to park on the sidewalks as this causes them to dart out into the street. Just a little reminder as it is a safety issue.

3rd District Councilwoman Hoehn stated she has no report.

4th District Councilman Curtis stated he has no report.

Councilwoman-at-Large Higgins stated and has spoken with Comm. Maynard and Chief Beloit about folks running the stop sign at Water and Main Streets. She added the street department repainted STOP on the street in front of the sign in bright white paint, but folks are still running it. She wondered if the paper could remind folks to be careful and pay attention to that stop sign, it is also a safety issue.

Mayor Tucker stated he has talked with Comm. Maynard and it seems they are having problems with folks dumping their grass clippings into the streets, which then clogs up the storm drains and catch basins.

Comm. Maynard agreed and added there is an ordinance against that as well.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn. Councilwoman Hoehn moved the meeting be adjourned. Seconded by Councilwoman Higgins.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Wolfe
Clerk-Treasurer